

CITY OF HORSESHOE BAY

ORDINANCE NO. ORD 07-08-28F

PLANNED DEVELOPMENT ZONE NO. 1

AN ORDINANCE OF THE CITY OF HORSESHOE BAY ADOPTING ZONING REGULATIONS FOR PD ZONE 1; ESTABLISHING ZONE BOUNDARIES FOR PD ZONE 1; AMENDING A ZONE MAP; ENACTING CERTAIN DEVELOPMENT STANDARDS AND LAND USE REGULATIONS; PROVIDING CERTAIN LAND USE RULES; ADOPTING CERTAIN LAND DEVELOPMENT STANDARDS; SETTING OUT ADMINISTRATIVE AND LEGISLATIVE PROCEDURES; IMPOSING CIVIL AND CRIMINAL PENALTIES, INCLUDING FINES NOT TO EXCEED \$2,000 PER OFFENSE; PROVIDING APPROVAL AUTHORITY FOR THE CITY COUNCIL; PROVIDING FOR ENFORCEMENT AND PENALTIES, AND PROVIDING FOR REPEALER, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Horseshoe Bay ("City Council") seeks to continue to provide for the health, safety, and welfare of those living in, working in, and visiting the City; and

WHEREAS, the City has adopted Ordinance No. 06-06-20, the City's Zoning Ordinance, for the purpose of establishing reasonable land use regulations within the City, including the use of Planned Development Zones ("PD Zones"), particularly to meet unique development needs of certain projects; and

WHEREAS, Section 6 of the City's Zoning Ordinance specifies the procedure and requirements for the creation of PD Zones, and which permit development of land as an integral unit for single or mixed use in accordance with a PD Concept Plan and in which the goals and objectives of the Comprehensive Plan are to be implemented; and

WHEREAS, Retriever Property Group, L.L.C., a Texas Limited Liability Corporation proposes development of property in the City in a manner that includes unique needs and for which a Concept Plan, proposed development standards for a PD Zone, and a statement of how the PD Zone will relate to the City's Comprehensive Plan has been submitted in compliance with the requirements of Section 6; and

WHEREAS, the property proposed for inclusion in such PD Zone comprises approximately 1.5 acres (the "Property") in the City of Horseshoe Bay, in Llano County Texas; and

WHEREAS, the City has examined such Concept Plan, which is incorporated in this Ordinance by reference, and all accompanying documents and is of the opinion that the

proposed PD Zone is in compliance with Section 6 of the City's Zoning Ordinance and that a PD Zone should be created and be identified hereinafter as PD Zone 1 of the City of Horseshoe Bay; and

WHEREAS, the City Council has provided public notice and has conducted a public hearing on creation of PD Zone 1, as required by law; and

WHEREAS, the City Council, in the exercise of its legislative discretion has concluded that the Zoning Ordinance of the City of Horseshoe Bay should be amended as herein described.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HORSESHOE BAY, that:

I. FINDINGS OF FACT

All of the above premises are hereby found to be true and correct legislative and factual findings of the City Council, and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

II. ZONING ORDINANCE AMENDED

Zoning Ordinance No. 06-06-20, of the City of Horseshoe Bay, Texas as heretofore amended, be and the same is hereby amended by adding a new zone, the "PD Zone No. 1" as more fully set forth herein. This Ordinance amends the City's Zoning Ordinance but shall stand alone and shall be complimentary to rather than supplanting or replacing portions of such Zoning Ordinance.

III. APPLICABLE ZONING AND OTHER REGULATIONS

The Property shall be regulated for purposes of zoning and subdivision by the City's Zoning and Subdivision Ordinances, and shall be subject to all other City Ordinances in effect except as herein specifically provided. Particular zoning classifications are set forth in this PD Ordinance. Where a general zoning item is not specifically addressed in this PD Ordinance but is addressed by the City's Zoning Ordinance or other ordinance in effect, the zoning or other ordinance shall control. In the event of any conflict between this PD Ordinance and the City's Zoning Ordinance, this PD Ordinance shall control.

IV. DEFINITIONS

Developer means Retriever Property Group, L.L.C. and shall include any person, partnership, firm, association, corporation (or combination thereof), and/or any officer, agent, employee, servant and trustee thereof who performs or participates in the performance of any act toward the subdivision of land within the intent, scope and purview of this PD Ordinance. Developer shall also be defined as the builder if he or she is responsible for the construction of buildings and/or other structures or permanent improvements.

PD Concept Plan establishes the general guidelines for the PD Zone by identifying the proposed land uses and intensities, thoroughfare locations, and open space boundaries and illustrates the integration of these elements into a master plan for the entire PD Zone, and a copy is attached hereto as "Exhibit B."

PD Zone means a Planned Development Zone under the City's Zoning Ordinance.

Project means the P & K development, which will include three buildings, parking and a buffering wall, discussed more fully in the PD Concept Plan.

Property means the approximately 1.5 acres of land within the corporate boundaries of the City of Horseshoe Bay, which is owned by Developer and which consists of Lots 28047 and 28048, Horseshoe Bay Subdivision, as depicted on Plat 28.1, recorded in Volume 3, Page 1, Deed Records of Llano County, Texas.

V. PD ZONE 1

(a) Standards

The project shall be zoned in one classification, General Commercial (C-2), and the provisions of Section 3.5.9 of the Zoning Ordinance shall apply to the project except for the following modification, and so long as the project is constructed consistent with the Concept Plan, the restrictions and standards described in Section 3.5.9 are amended for Zone 1 as follows:

- (1) Zoning: Unless otherwise modified by this PD Ordinance, rules presently pertaining to Zone 4 apply to the development of the Property.
- (2) Setbacks: The buildings designated as #1 and #2 in the Concept Plan shall be required to have side and rear setbacks as shown on the Concept Plan.
- (3) Spacing: The requirement for the spacing of commercial buildings a distance of at least thirty (30) feet is modified for Buildings #1 and #2 so long as they are constructed and located consistent with the Concept Plan.
- (4) Buffering: Developer shall erect a buffer of no less than seven (7) feet in height, constructed of a combination of wrought iron and stone or stucco on brick, along the entirety of the northern and northwestern boundary of the Property and further extending a length of at least one hundred twenty (120) feet along the northeastern boundary of the Property. One gated entrance shall be allowed in such wall providing ingress and egress solely for the operational use of the occupant in Building #1 and not for use by the general public.
- (5) An additional opening shall be provided for pedestrians, golf carts, or other small vehicles, as shown on the Concept Plan.
- (6) The trash container shall be covered, shall have a separate trash screen gate, and shall be located no closer than 120 feet from the gated entrance, which is to be a sliding gate with a screen.

- (7) A total of 56 parking spaces shall be provided, as shown on the Concept Plan.
- (8) The Project shall be done in phases, with the first phase consisting of the 3,000 square foot and 5,000 square foot buildings and the entire 56 parking spaces, and the second phase will include the 6,000 square foot building.
- (9) A covered patio area shall be provided as shown on the Concept Plan.

(b) Parking During Construction

Developer shall at all times provide parking for vehicles involved in the Project on the Property. Construction vehicles shall not be allowed to park on Highway 2147 or Stone's Throw. All requirements of the City's Parking Ordinance shall be followed during construction.

(c) OTHER REQUIREMENTS

- (1) Repair and restoration to Stone's Throw: Developer shall insure that those employed in the construction of the Project shall use their best efforts not to cause damage to Stone's Throw, and no less than monthly, Developer shall make temporary repairs to any damage so caused. Upon completion of the first structure for the Project, Developer shall repair any damage to Stone's Throw and at its cost, seal coat the portion of the road not being resurfaced as part of the Horseshoe Bay Property Owners' Association street re-surfacing program to the standard currently used in Horseshoe Bay.
- (2) Garbage Storage: All garbage storage areas shall be screened and secure.
- (3) Garbage Collection: All garbage collection services shall be at the same time and on the same schedule as for residential service in the vicinity of the Property.
- (4) Delivery Trucks: Trucks and other vehicles making deliveries to any business on the Property shall consist only of automobiles, pickups, vans, panel trucks, step vans, or similar types of delivery vehicles, having no more than ten wheels and not pulling a trailer. Semi-trailer trucks are absolutely prohibited.
- (5) Delivery Locations: All regular deliveries to any business on the Property shall be made from Highway 2147. Deliveries shall not be made to any business on the Property from Stone's Throw except in unusual or emergency situations when access from Highway 2147 is blocked by construction or other circumstances beyond the control of the owners of the business to which the delivery is made, or when the item or cargo being delivered cannot be transported to or received by such business due to size of the item or cargo or other physical factors.

VI. PENALTIES, COMPLIANCE & ENFORCEMENT

To the extent not otherwise modified by the provisions contained in this PD Ordinance, the provisions contained in Section 5, Penalties and Enforcement of the City's Zoning Ordinance pertain to PD Zone 1. The Property shall be used only in the manner and for the purposes provided for in Zoning Ordinance No. 06-06-20, of the City of Horseshoe Bay as heretofore amended by this PD Ordinance.

VII. ZONING MAP AMENDED

The official Zoning District Map of the City of Horseshoe Bay hereto adopted be and is hereby amended to reflect the zoning change made herein.

VIII. SEVERABILITY

If any section, subsection, sentence, phrase, word, paragraph or provision of this PD Ordinance be found to be illegal, invalid or unconstitutional, for any reason whatsoever, the adjudication shall not affect any other section, subsection, sentence, phrase, word, paragraph or provision of this PD Ordinance or the application of any other section, subsection, sentence, phrase, word, paragraph or provision of any other ordinance of the City. The City Council declares that it would have adopted the valid portions and applications of this PD Ordinance and would have rezoned the Property without the invalid part, and as to this end the provisions of this PD Ordinance are declared to be severable.

IX. EFFECTIVE DATE

This PD Ordinance shall be in full force and effective from and after its date of passage, in accordance with law.

ADOPTED and APPROVED on this 28th day of August, 2007 by a vote of the City Council of the City of Horseshoe Bay, Texas.

CITY OF HORSESHOE BAY, TEXAS

/S/

Robert W. Lambert, Mayor

ATTEST:

/S/

Toni Vanderburg, City Secretary